

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

TIMOTHY WILLIAMS,  
Petitioner,  
v.  
MAGGIE MILLER-STOUT,  
Respondent.

No. CV-05-418-MWL

ORDER ADOPTING REPORT  
AND RECOMMENDATION

**JUDGMENT HAVING** been entered against Timothy Williams in Asotin County (Washington) Superior Court on or about May 19, 2003; Mr. Williams' conviction having become final before the Supreme Court decided *Blakely v. Washington*, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004); and the Ninth Circuit having decided that *Blakely* does not apply retroactively to a conviction that became final before that case was decided, *Schardt v. Payne*, 414 F.3d 1025, 1038 (9th Cir.2005); Now, therefore

**IT IS HEREBY ORDERED:**

1. Magistrate Judge Michael W. Leavitt correctly determined that Mr. Williams may not challenge the validity of his conviction under *Blakely v. Washington, supra*.

2. Mr. Williams' objections (Ct. Rec. 7) are

1 overruled.

2 3. The Court adopts Magistrate Judge Leavitt's report  
3 and recommendation (Ct. Rec. 6).

4 4. Mr. Williams' amended petition for a writ of habeas  
5 corpus (Ct. Rec. 5) is dismissed with prejudice.

6 **IT IS SO ORDERED.** The District Court Executive is  
7 hereby directed to file this order, enter judgment  
8 accordingly, furnish copies of the order and judgment to  
9 Mr. Williams, and close the case.

10 **DATED** this 10th day of March, 2006.

11  
12 s/Fred Van Sickle  
13 Fred Van Sickle  
14 United States District Judge  
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